II. REMARKS

A. Introduction

In the December 8, 2003 Office Action, claims 12-19 are noted as pending and are rejected. In this Response, claim 12 is amended, claims 18 and 19 are canceled, new claims 23-28 are added, and Remarks are provided.

B. Objection to/Rejection of Claims

In numbered paragraphs 5-7 of the Action, the Examiner raises various issues regarding the claims.

It is respectfully submitted that these claims have been amended herein to address these issues, including adopting the language suggested by the Examiner merely for "consistency", and better defining the air circulator.

C. Rejection of Claims Based on Prior Art

1. The Present Invention

The following summary is intended to assist the Examiner in examining the application, but is not intended to limit the claims.

The air circulator includes at least one entry fan 38 mounted in a central region of a box 12 (see, e.g., page 3, lines 13-17 and Fig. 1) for introducing into the building a stream of fresh air AN from outside the building, and two extraction fans 44 and 46 mounted respectively in two end regions of the box for extracting from the building a stream of stale air AV from the interior (see, e.g., page 7, lines 19-24 and 27-30). A controller 52 selectively runs or stops the entry fan 38 and at least one of the two extraction fans 44 and 46, depending upon the desired mode of operation (see, e.g., page 8, lines 10-17).

The unit may assume two different modes of operation, via the controller:

- a first mode of operation with heat exchange (heat recuperation) when the two extraction fans are operating, and

- a second mode of operation without heat exchange, when one of the two extraction fans is running and the other is stopped. (See, e.g., page 10, lines 16-19).

The first mode is obtained when the entry fan 38 and both extraction fans 44 and 46 are running. See, e.g., page 8, line 19 to page 9, line 7, referencing figures 4 and 5.

The second mode of operation is obtained when the entry fan 38 is running, one of the two extraction fans is operating and the other extraction fan is stopped. See, e.g., page 8, line 35 to page 10 line 20, referencing Figures 8-11.

The specification also explains that when one extraction fan is running and the other is stopped, a disequilibrium is produced in the unit of the present invention. See page 10, lines 25-29. This disequilibrium is obtained due to the fact that the folds of the foil 30 exhibit different configurations because of differences of air pressure introduced into the fluid passages.

The first mode of operation, without heat exchange, would be desirable for aerating a room in the summer time. In such a case, the present invention allows a stream of fresh air into a building to cool the interior thereof, without exchanging heat, with the stale air (which is warmer) inside of the building. If only one mode with heat exchange were available, the fresh air obtained from outside would undesirably be heated by the stale air from the inside.

The second mode of operation without heat exchange may be obtained by running one of the fans 44 and 46 and stopping the other, without the need for valves, or the like, thus simplifying the construction, operation and maintenance costs relative to the prior art.

2. Rejection of Claims 12-14 and 16-18

These claims are rejected as being anticipated by Oberschmid, already of record.

As noted above, claim 18 is canceled herein. Nevertheless, it is respectfully submitted that the present invention as recited by amended claims 12-14 and 16-17, was not anticipated by the cited reference.

The subject matter of canceled claim 19 has been added to claim 12. The Action recognizes that the subject matter of claim 19 was not anticipated by Oberschmid, as the claim is only rejected on obviousness (and Section 112, as discussed above). Accordingly, claim 12, as amended, is not anticipated by this reference.

It is also believed that amended, independent claim 12, and the claims depending therefrom, were not rendered obvious by this reference.

Claim 12, in addition to being amended to include the subject matter of claim 19, has been amended to include the subject matter of canceled claims 18 (at least one entry fan and two extraction fans), and 11 (controller for selectively operating the fans) and to recite the heat exchange/no heat exchange modes made possible by this structure.

Oberschmid allows a mode of operation without heat exchange, but this reference's structure requires the use of valves (see the valves 13 in figures 2b, 2c and 4b) to accomplish this mode. Further, this reference appears to rely upon strings to create air channels, whereas the present invention manipulates a flexible foil using air pressure of the respective air streams. Finally Oberschmid appears to use only one extraction fan 11, which would appear to preclude the selective modes of operation using the two extraction fans recited in claim 12.

Thus, this reference fails to discloses the instant unit particularly with respect to its specific air circulator and its specific modes of operation.

3. Claims 12, 13, 16 and 17

These claims are rejected as being anticipated by Harrison.

For the following reasons it is respectfully submitted that the present invention as recited by these amended claims was not anticipated by the reference.

Again, the subject matter of canceled claim 19, which is not rejected as being anticipated by this reference, has been added to claim 12. Accordingly, claim 12, as amended, is not anticipated by this reference.

It is also believed that amended claim 12, and the subject claims depending therefrom, were not rendered obvious by this reference.

In contrast to the Examiner's conclusion, the "foil" of Harrison is not inherently capable of being deformed as a function of the air pressure variations due to forced air or other fluid flow therethrough. The reference teaches the need for spacing members 10-13 for separating the folds (see column 3, lines 55-57).

Thus, this reference also fails to disclose the instant unit particularly with respect to the recited air circulator (fans) and modes of operation (heat exchange/no heat exchange).

4. Claim 19

This claim is rejected as being made obvious by Oberschmid.

Since the claim has been cancelled herein, no further comments are necessary.

D. New Claims

Claim 15 is only objected to/rejected under 35 U.S.C. Section 112, second paragraph, as being based on an allegedly indefinite claim 12. New claim 23 herein combines claims 12 and

15, and has been written to address the claim 12 rejection, i.e., to clarify that the air circulator creates the open channels in the flexible foil, as inquired by the Examiner on page 5, numbered paragraph of the Action.

New claims 24 and 25 correspond to claims 16 and 17, but depend from new claim 23.

New claims 26-27 correspond generally to the subject matter of canceled claims 18/19, and 11, but ultimately depend from new claim 23.

New claim 28 corresponds to the modes recitation of claim 12, again finding support on pages 8-10 of the application as filed. Claim 28 depends ultimately from new claim 23.

III. CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that claims 12-17 are in condition for allowance.

If there are any additional fees associated with this Response, please charge same to our Deposit Account No. 19-3935.

Finally, if there are any formal matters remaining after this Response, the undersigned would appreciate a telephone conference with the Examiner to attend to these matters.

Respectfully submitted,

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Date: 5/27/04

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